



STATE BOARD OF LAND COMMISSIONERS

Philip E. Batt, Governor and President of the Board
Pete T. Cenarrusa, Secretary of State
Alan G. Lance, Attorney General
J. D. Williams, State Controller
Anne C. Fox, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

MINUTES REGULAR LAND BOARD MEETING September 8, 1998 9:00 AM

The regular meeting of the Idaho State Board of Land Commissioners was held on September 8, 1998, in Boise, Idaho. The Honorable Philip E. Batt presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa
Honorable State Controller J.D. Williams
Honorable Superintendent of Public Instruction Anne C. Fox

Secretary to the Board Stanley F. Hamilton

Attorney General Alan G. Lance was absent from the September 8, 1998 meeting.

CONSENT AGENDA

The following consent agenda was approved in its entirety upon a motion by Secretary of State Cenarrusa and seconded by State Controller J.D. Williams. The motion carried on a vote of 4-0.

1. The following official transactions were approved:

Bureau of Real Estate, Easement Section for July 1998
Bureau of Real Estate, Land Sale Section for July, 1998
Bureau of Minerals for July 1998
Bureau of Range Management and Surface Leasing for Cropland, Grazing, Cottage Site,
Miscellaneous and Submerged Land Leases for July 1998
Timber Sale for the period July 25, 1998 through August 21, 1998

2. The following timber sales were approved:

A. North Teakean Salvage	CR-4-0684	850 MBF
B. Disappointed Grouse	CR-5-0089	4,150 MBF
C. Murray Creek	CR-6-0148	6,260 MBF

This item was staffed by Ron Litz, Chief, Bureau of Forest Management

3. The following application for addition to the qualified bidders list for timber sales was approved:

Tamarack Mill, LLC
Highway 12
PO Box 340
Kooskia, ID 83539

This item was staffed by Ron Litz, Chief, Bureau of Forest Management

4. The following timber sale assignment was approved:

Evergreen Forest Products, Inc. to Tamarack Mill, LLC

This item was staffed by Ron Litz, Chief, Bureau of Forest Management

5. The following Land Board minutes were approved:

Regular Land Board meeting - June 9, 1998

REGULAR AGENDA

6. Director's report -- Director Hamilton presented the monthly Director's report that consisted of:
- A. Summary of the fiscal 1999 Principal Fund Balances and Revenue Composition
 - B. Historical Permanent Endowment Fund Growth

7. Budget Presentation -- Presented by Stan Hamilton, Director

Director Hamilton stated that the Budget Presentation was made to three members of the Land Board and later in the meeting lost a quorum. This necessitated bringing the presentation back to this meeting. The Land Board needs to approve the supplemental appropriation request and also the decision unit requests that have been prepared by the agency, and the Board needs to confirm the decision unit priority that was assigned by the agency.

The budget was submitted to the Department of Financial Management on September 1, 1998 as required with a provisional statement that if the Board made a change in the budget that the change would be made as directed. One change that was made prior to submission was the Board's recommendation that the demolition of the Tuberculosis Hospital at Gooding, ID be taken out of the agency budget and placed it in the capital improvement budget.

State Controller Williams asked if the department had all of the resources needed to be operational after the year 2000. Director Hamilton said the department is working on FY2000 and feels everything is pretty well covered. The department is currently working on some major reprogramming that will deal with FY2000, particularly in the accounting programs for leases. He stated that Legislature has been quite generous with resources to be able to accomplish this.

Superintendent Fox asked if the amount for commercial property management was sufficient to develop the program. Director Hamilton stated that this would add a resource desperately needed in the department. It would allow the department to examine properties in the commercial arena. The department will be looking at other properties if the constitutional amendments pass. This request would cover one position plus additional resources for contracting.

After discussion of these items, a motion was made by State Controller J.D. Williams and seconded by Superintendent Anne Fox to give the tentative Land Board approval so that the budget can proceed with the understanding that it will be finally sent to the Governor's office and the Legislature. Motion carried on a vote of 3-0 with Attorney General Lance being absent and Governor Batt abstaining from the vote.

8. Audience with the Board – Bryan Ravenscroft -- At the request of the Secretary of State

Director Hamilton introduced Bryan Ravenscroft to the Land Board. Mr. Ravenscroft was granted an audience with the Board at the request of the Secretary of State.

Mr. Ravenscroft presented the Land Board with his study and research on forest health. His presentation was primarily on the toxic effects on fish (salmon, cutthroat and bull trout) from the leaching of toxic chemicals from pine needles and bark on the forest floor spilling into the rivers.

Following his presentation, a motion was made by State Controller J.D. Williams and seconded by Secretary of State Cenarrusa to send Mr. Ravenscroft's document to Jay O'Laughlin and the Policy Analysis Group at the University of Idaho for their review. Motion was carried on a vote of 4-0 with Attorney General Lance being absent.

9. At the request of the Governor – Request by Rayonier, Inc. to waive interest charge on timber sales purchased before sawmill fire -- Presented by Winston Wiggins, Assistant Director, Forestry and Fire

Winston Wiggins presented the background information. He stated that the mill at Plummer, Idaho burned several weeks ago. Rayonier had purchased two state timber sales that they have not been able to operate on. Their request was that they be granted relief from stumpage interest until the mill is back up and operating.

Mr. Wiggins stated that he didn't think Rayonier had finalized a corporate decision rebuilding. Governor Batt stated that he had never seen a more responsible group of people than Rayonier to try to do what is best for the State of Idaho. They want to get the workers back and rebuild if it is a good corporate decision. State Controller Williams stated that there are a lot of jobs involved, plus they are a potential bidder at future sales.

Mr. Wiggins recommended that Rayonier be granted relief for a period of one year from the date of the sale. Motion was made by Superintendent Fox to accept Mr. Wiggins's recommendation. Secretary of State Cenarrusa seconded the motion. Motion carried on a vote of 4-0 with Attorney General Lance being absent.

10. 1998 Conflicted Grazing Leases -- Presented by Tracy Behrens, Range Management Specialist

Action Item I -- Applications for grazing leases of state lands that are managed together with adjacent federal land in allotments administered by the BLM.

The conflicted leases that fall into this category are:

Lease # G-8440 -- Lost Peaks Ranch, current lessee -- Idaho Watersheds Project, conflictor

Lease # G-8585 -- Shiner Ranch, current lessee -- Idaho Watersheds Project, conflictor

Lease # G-8780 -- AM Hatch & Sons, current lessee -- Idaho Watersheds Project, conflictor

1. The department recommended that the Board accept for processing each of the lessee applications filed for the leases listed above. All of the lessee applicants propose using the subject state lands for grazing purposes, have properly filed timely applications and paid the required fees and have submitted a management proposal.
2. The department recommended that the Board qualify all lessee applicants seeking to renew the leases above on the grounds that these individuals are presently holders of state grazing leases in good standing, and as such have demonstrated that they are qualified applicants. Additionally, all of the lessee applicants have submitted acceptable management proposals.
3. The department recommended that the Board not accept for processing the applications filed by the conflict applicant, Idaho Watersheds Project, for each of the above leases. This recommendation is based on the conflict applicant's failure to submit any management proposal for the above leases.
4. The department recommended that the Board authorize the department to issue ten-year grazing leases to the sole qualified applicant for each of the above referenced leases.

The motion was made by State Controller Williams and seconded by Superintendent Fox to accept the recommendation of the department for Action Item I. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

Action Item II -- Applications for grazing leases of state lands that are fenced separate from but used in conjunction with adjacent or nearby land for the management needs of the current lessee.

The conflicted leases that fall into this category are:

Lease # G-4060 -- Don Carr, current lessee -- Student Environmental Action Coalition (SEAC),
conflictor

Lease # G-4280 -- Timothy Straw, current lessee -- Norman Lee, conflictor

Lease # G-5320 -- Wayne Hall, current lessee -- Curtis Stilwell, conflictor

Lease # G-7088 -- Dean Brown, current lessee -- Rusty Parker, conflictor

Lease # G-8741 -- Douglas Robin, current lessee -- Idaho Watersheds Project, conflictor

Lease # G-9048 -- Grant Lloyd, current lessee -- Caribou Cattle LLC

1. The department recommended that the Land Board accept for processing each of the lessee applications and the conflict applications from Norman Lee, Curtis Stillwell, Rusty Parker and Caribou Cattle LLC filed for the leases listed above. All applicants, including the conflict applicants identified above, propose using the subject state lands for grazing purposes. All have properly filed timely applications, paid the required fees and submitted management proposals.
2. The department recommended that the Board not accept for processing the conflict applications filed by SEAC for lease G-4060 and by Idaho Watersheds Project for lease G-8741.
 - a. SEAC submitted a management proposal that clearly states that there would be no livestock grazing allowed on the state land. The proposal is contrary to the current land classification.
 - b. IWP has failed to submit the required grazing management proposal.
3. The department recommended that the Board qualify all lessee applicants seeking to renew the leases listed above on the grounds that these individuals are presently holders of the state grazing leases in good standing and as such have demonstrated that they are qualified applicants. Additionally, each of these applicants has submitted an acceptable management proposal for their respective lease.
4. The department recommended that the Land Board qualify the conflict applicants Norman Lee, G-4280; Curtis Stillwell, G-5320; Rusty Parker, G-7088; and Caribou Cattle LLC, G-9048. The recommendation is based on the following:
 - a. The conflict applicants listed above have each submitted acceptable management proposals with their grazing lease applications.
 - b. The maximum long-term financial return from the state land is generally best achieved through the management of the state land together with adjacent federal, state or private land in order to make the most efficient use of the available state forage.

The conflict applicants have each submitted acceptable management proposals that incorporate the use of the state land with their adjacent deeded land
 - c. The issuance of a lease to the conflict applicant would generally be disruptive to the current lessee's overall operation, but would not be disruptive to the state's management efforts on the subject parcels because the lands are fenced separate from adjacent land.
 - d. On state endowment lands such as these – that are fenced or managed separately and depend on coordinated management with adjacent federal, state or private lands for their long-term value and usability – the long-term financial returns to the endowment are enhanced by offering these parcels for lease to all qualified applicants.

5. The department recommended the scheduling of lease auctions between the recommended qualified applicants for leases G-4280, G-5320, G-7088 and G-9048 to determine who will pay the highest premium bid.
6. The department recommended that the Board authorize the department to issue ten-year leases to the sole qualified applicants for lease G-4060 and G-8741.

The motion was made by Secretary of State Cenarrusa and seconded by Superintendent Fox to accept the recommendation of the department for Action Item II. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

Action Item III -- Applications for grazing leases of state lands that are intermingled with and managed together with adjacent private lands in a cooperative grazing management strategy.

The conflicted leases that fall into this category are:

Lease # G-4390 – Jim Renshaw, current lessee – SEAC, conflictor

Lease # G-5005 – AL Cattle Co., current lessee – IWP, conflictor

Lease # G-6018 – AL Cattle Co., current lessee – Homer Newbit, Conflictor

1. The department recommended that the Board accept for processing each of the lessee applications and the conflict application from Homer Newbit for the leases as listed above. All lessee applicants and the conflict applicant propose using the subject state lands for grazing purposes. All have properly filed timely applications, paid the required fees and have submitted a management proposal.
2. The department recommends that the Board not accept for processing the conflict applications submitted by SEAC and IWP. The recommendation is based on the following:
 - a. SEAC submitted a management proposal that states there would be no livestock grazing allowed. This proposal to totally restrict livestock grazing is contrary to the current land classification.
 - b. IWP has failed to submit the required grazing management proposal.
3. The department recommended that the Board qualify all lessee applicants seeking to renew the leases listed above on the grounds that these individuals are presently holders of state grazing leases in good standing. Additionally, all of the lessee applicants have submitted acceptable management proposals.
4. The department recommended that the Board qualify the conflict applicant Homer Newbit for lease G-6018. The conflict applicant submitted an acceptable management proposal that incorporates the use of the state land with his adjacent state grazing lease and his deeded land.
5. The department recommended the scheduling of a lease auction between the recommended qualified applicants for lease G-6018, AL Cattle Company and Homer Newbit, to determine who will pay the highest premium bid.

6. The department recommended that the Board authorize the department to issue ten-year leases to the sole qualified applicants for leases G-4390 and G-5005.

The motion was made by Secretary of State Cenarrusa and seconded by State Controller Williams to accept the recommendation of the department for Action Item III. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

Action Item IV -- Applications for grazing leases of state lands that are small isolated parcels located along the Boise River and are managed for grazing in conjunction with adjacent deeded land.

The conflict leases that fall into this category are:

Lease # G-6075 – Wayne Bishop, current lessee – Alvin D. Carver & IWP, conflictors

Lease # G-6579 – O.L. Dudley Jr, current lessee – Roger Lewis, IWP, conflictors

1. The department recommended that the Board accept for processing each of the lessee applications and the conflictor application from Roger Lewis. Mr. Alvin Carver submitted a letter stating he was withdrawing his application. The applicants propose using the state lands for grazing purposes, have filed timely applications, have paid the required fees and have submitted management proposals.
2. The department recommended that the Board not accept for processing the conflictor applications submitted by Idaho Watersheds Project because IWP failed to submit the required grazing management proposals.
3. The department recommended that the Board qualify the lessee applicants seeking to renew the leases. These individuals are presently holders of the state grazing leases in good standing. They have submitted an acceptable management proposal.
4. The department recommended that the Board qualify the conflictor applicant for lease G-6579, Roger Lewis. He has submitted an acceptable management proposal.
5. The department recommended the scheduling of a lease auction between the recommended qualified applicants for lease G-6597 to determine who will pay the highest premium bid. The department further recommended that because the Boise River splits this parcel of state land into two separate units, the land should be auctioned in two separate units: one north of the Boise River and one unit south of the river.
6. The department recommended that the Board authorize the department to issues a ten-year grazing lease to the sole qualified applicant for lease G-6075, Wayne Bishop.

State Controller Williams amended the recommendations to qualify Mr. Dudley and Mr. Lewis – both for the land north of the river and qualify Mr. Lewis for the land south of the river. Mr. Dudley was not qualified for the portion south of the river. With this amendment, the motion was made by State Controller Williams and seconded by Secretary of State Cenarrusa to accept the recommendation of the department for Action Item IV. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

11. Metalliferous and non-metalliferous mineral royalty schedule -- Presented by Scott Nichols, Bureau Chief of Minerals

Director Hamilton requested that this agenda item be deferred until the October 2, 1998 regular meeting. There were no objections.

12. Approval to adopt revisions to IDAPA 20.03.04 Regulations of Beds, Waters and Airspace over Navigable Lakes in the State of Idaho – The proposal was presented by Jay Biladeau, Assistant Director, Lands, Minerals and Range

Director Hamilton stated that this item is a request for final approval of rules for the Navigable Lakes Lake Protection Act. Jay Biladeau provided the background information. Temporary rules for regulation of beds, waters & airspace over navigable lakes was approved by the Board at the April 1998 regular Land Board meeting. At that meeting, the Board also authorized the department to enter into the rulemaking process to adopt those same temporary rules as permanent rules. The rulemaking comment period has concluded. During the comment period, certain changes were identified by public comment and staff review. Primary changes were clerical errors. The Office of Administrative Rules has indicated that these clerical errors may be amended in the current rulemaking, even though the original notice of rulemaking did not include all of the provisions in which those clerical errors exist.

The department recommended approving the amendments to this agenda item. Approval will mean that the temporary rules will be adopted as permanent rules, and the clerical errors will be corrected – all pending the approval of the 1999 Idaho Legislature.

The motion was made by Superintendent Fox and seconded by State Controller Williams to accept the recommendation of the department. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

13. Request for final approval to complete the State of Idaho/J.R. Simplot Company land exchange – Presented by Perry Whittaker, Bureau Chief of Real Estate

Director Hamilton stated that this item is a request for final approval on a land exchange between the state of Idaho and J. R. Simplot Company.

Perry Whittaker provided the background information on this item. Simplot has decided they would not need as much state land as was initially anticipated near Mountain Home. The state land needed for the project was scaled back to balance the exchange.

The State land is located approximately one and one-half miles northwest of the Mountain Home city limits. The land is an irregular, trapezoidal shaped parcel and is the easterly edge of 600 acres of remaining state land in a school section.

This proposed land exchange allows the State to acquire productive timberland with legal access lying adjacent to existing state land west of Banks. A public hearing was held with no adverse comments received.

The department recommended final Land Board approval to complete this exchange. The motion was made by Secretary of State Cenarrusa and seconded by State Controller Williams to accept the recommendation of the department. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

14. Request for approval to conceptually proceed with an exchange between the State of Idaho and Mr. Lee Potter -- Presented by Perry Whittaker, Bureau Chief of Real Estate

Perry Whittaker provided the background information on this item. This is a land exchange request that was submitted by the Clearwater Supervisory Area out of Orofino for Land Board conceptual approval to proceed with the proposed Camp Howard Ridge land exchange between the State of Idaho and Mr. Lee Potter.

The private land to be acquired consists of 1,660 acres. An estimated 650 acres of the private land is commercial timberland. The timber has legal access. The remainder is rangeland. The private party does not own mineral rights on part of the private land; therefore, the state will likely have to reserve some mineral rights to balance the resource values. There are no endangered species or special resource issues or concerns on the private land.

The department recommended Land Board conceptual approval to initiate this exchange proposal with Mr. Lee Potter. The motion was made by Secretary of State Cenarrusa and seconded by State Controller Williams to accept the recommendation of the department. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

15. Request to sell state surplus property at State Hospital South owned by Idaho Department of Health and Welfare -- Presented by Don McNarie, Real Estate Specialist

This item requests disposal of 0.31 of an acre tract of land that has been declared surplus by the Idaho Department of Health and Welfare (IDHW), and is located in Bingham County. It is on the campus of State Hospital South in Blackfoot, Idaho.

An independent fee appraiser completed a real estate appraisal for the property on July 2, 1998. No written responses were received from any agencies or departments. The parcel is unimproved and undeveloped. The adjacent landowner has built a house and a driveway that is on a portion of the parcel being sold.

The department recommended Board approval to allow IDHW to offer this property for sale for \$4,500.00 at public auction once the proposed sale has been properly advertised. The terms of sale are cash on day of sale. The purchaser will also be required to pay the survey and appraisal fees and cost of advertising on the day of sale.

The motion was made by Secretary of State Cenarrusa and seconded by State Controller Williams to accept the recommendation of the department. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

INFORMATION AGENDA

The information agenda was referred to Members for personal review and was not discussed further during the meeting.

16. Timber sale activity report
17. Interest rate update
18. Triumph Mine update
19. Fire Season update
20. WestRock, Inc. update
21. Stibnite Mine Reclamation

Motion was made by Superintendent Fox and seconded by State Controller Williams to resolve into Executive Session at 11:30 a.m. Motion carried on a vote of 4-0 with Attorney General Lance being absent.

EXECUTIVE SESSION

22. Dupont v. Idaho State Board of Land Commissioners, Kootenai County Case No. CV-93-97574 pursuant to Idaho Code § 67-2345(1)(f) -- Presented by Stephanie A. Balzarini, Deputy Attorney General
23. To consider hiring a public officer, employee, staff member or individual agent pursuant to Idaho Code § 67-2345(1)(a) -- Presented by Stan Hamilton, Director, Idaho Department of Lands

Governor Batt was excused from the meeting at 12:00 noon.

24. To conduct deliberations concerning acquiring an interest in real property which is not owned by a public agency pursuant to Idaho Code § 67-2345(1)(c) -- Presented by Clive Strong, Deputy Attorney General
25. Merritt v. Perkins, settlement of quiet title action involving former riverbed of the Boise River -- Presented by Nick Krema, Deputy Attorney General
26. Triumph Mine update -- Presented by Nick Krema, Deputy Attorney General

The Land Board returned to regular session at 12:30 p.m.

Director Hamilton introduced Executive Session agenda item #25. Nick Krema, Deputy Attorney General recommended to the Land Board that they approve the settlement in the Merritt v. Perkins litigation, quieting title to some former riverbed of the Boise River and vesting a greenbelt easement in the state.

The motion was made by Superintendent Fox and seconded by State Controller Williams to accept the recommendation. The motion carried on a vote of 3-0 with Governor Batt and Attorney General Lance being absent.

Director Hamilton introduced Executive Session agenda item #22. Stephanie Balzarini, Deputy Attorney General recommended to the Land Board that they move forward with the recently filed motion to alter or amend judgement in the Dupont case on specific issues that the state requires clarification or amendment of and to preserve the option of appealing at a later date.

The motion was made by State Controller Williams and seconded by Superintendent Fox to accept the recommendation. The motion carried on a vote of 3-0 with Governor Batt and Attorney General Lance being absent.

There was a motion by Superintendent Fox and seconded by State Controller Williams to resolve back into Executive Session at 12:40 p.m. Motion carried on a vote of 3-0 with Governor Batt and Attorney General Lance being absent.

The Land Board returned to regular session at 12:50 p.m.

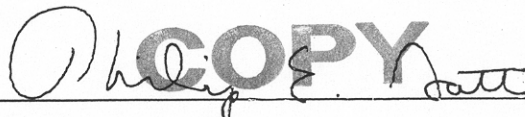
State Controller Williams provided information on Executive Session agenda item #23. This item involved a contract the department has with Mr. Joe Hinson as a consultant to assist the Board in soliciting public input regarding the Federal Lands Task Force report and also to help develop strategy based upon the input as to how the Board should proceed.

There has been significant input from various groups that they feel they ought to have the public input part separated from the development of the strategies for implementation. Based upon that, the contract with Mr. Hinson has been terminated and his role will be only to solicit public input. This is basically done.

After the initial public input has been received in October, then the Land Board will make a decision how to proceed from there and will most likely go through a formal RFP process. Mr. Hinson's contract was not processed through the RFP process because it involved less than \$25,000. Proposals will be solicited from any groups that may want to assist the Board in developing a strategy for implementation.

There being no further business to come before the Board, the motion was made by State Controller Williams and seconded by Superintendent Fox to adjourn. The motion carried on a vote of 3-0 with Governor Batt and Attorney General Lance being absent

IDAHO STATE BOARD OF LAND COMMISSIONERS

 **COPY**

President, State Board of Land Commissioners and
Governor of the State of Idaho

Pete T. Cenarrusa **COPY**

Pete T. Cenarrusa
Secretary of State



Stanley F. Hamilton **COPY**

Stanley F. Hamilton
Director